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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, MARCH 9, 1998

IN RE PETITION OF

AMERICAN GENERAL FINANCE
OF AMERICA, INC.

CASE NO. BFI970075

For modification of 10 VAC 5-60-40,
10 VAC 5-60-50 and 10 VAC 5-70-10
et seq.

ORDER ADOPTING REGULATIONS

ON A FORMER DAY American General Finance of America, Inc. ("AGFA") filed with the Clerk a Petition commencing this case. In its Petition, AGFA sought amendment of the Commission's rules governing the sale of non-credit-related life insurance in consumer finance offices, 10 VAC 5-70-10 et seq., and of the Commission's rules relating to the conduct of open-end lending and mortgage lending businesses in consumer finance offices, 10 VAC 5-60-40 (F) and 10 VAC 5-60-60 (G). By order herein dated December 19, 1997, the Commission directed that notice of a proposed amendment be transmitted to the Virginia Register and also given to all licensees under the Consumer Finance Act ("the Act") and others. Interested parties were afforded an opportunity to file written comments in favor of or against the proposal, and written requests for a hearing, on or before February 19, 1998.

Several persons filed written comments opposing and supporting the proposed amendment. No request for a hearing was made. Thereafter, certain additional amendments to the regulation were proposed by the Bureau of Financial Institutions.

The Commission, having considered the proposed amendments and all submissions made in this case, concludes that the proposed amendments, with certain modifications, should be adopted.

THEREFORE, IT IS ORDERED THAT:

(1) The amendments, attached hereto, are adopted effective March 10, 1998.

(2) The amended regulations shall be transmitted for publication in the Virginia Register.

(3) There being nothing further to be done in this matter, this case is dismissed and the papers herein shall be placed among the ended cases.

CHAPTER 60.

CONSUMER FINANCE COMPANIES

10 VAC 5-60-40. Rules governing open-end credit business in licensed consumer finance offices.

A. The business of extending open-end credit shall be conducted by a separate legal entity, and not by the consumer finance licensee. The separate, open-end credit entity ("separate entity") shall comply with all applicable state and federal laws.

B. Separate books and records shall be maintained by the licensee and the separate entity, and the books and records of the licensee shall not be commingled with those of the separate entity, but shall be kept in a different location within the office. The Bureau of Financial Institutions shall be given access to the books and records of the separate entity, and shall be furnished such information as it may require in order to assure compliance with this section.

C. The expenses of the two entities will be accounted for separately and so reported to the Bureau of Financial Institutions as of the end of each calendar year.

D. Advertising or other information published by the licensee or the separate entity shall not contain any false, misleading or deceptive statement or representation concerning the rates, terms or conditions for loans or credit made or extended by either of them. The separate entity shall not make

or cause to be made any misrepresentation as to its being a licensed lender, or as to the extent to which it is subject to supervision or regulation.

E. The licensee and the separate entity shall not make both a consumer finance loan and an extension of open-end credit to the same borrower or borrowers as part of the same transaction.

F. Except as authorized by the Commissioner of Financial Institutions, or by order of the State Corporation Commission, insurance, other than credit life insurance, credit accident and sickness insurance, ~~and~~ credit involuntary unemployment insurance, and noncredit-related life insurance sold pursuant to 10 VAC 5-70-10 et seq. shall not be sold in licensed consumer finance offices in connection with any extension of open-end credit by the separate entity.

G. When the balance owed under an open-end credit agreement is paid, finance charges will be assessed only to the date of payment.

10 VAC 5-60-50. Rules governing real estate mortgage business in licensed consumer finance offices.

A. The business of making or purchasing loans secured by liens on real estate shall be conducted by a separate legal entity, and not by the consumer finance licensee. This separate, mortgage entity ("separate entity") shall comply with all applicable state and federal laws.

B. Separate books and records shall be maintained by the consumer finance licensee and the separate entity, and the books and records of the consumer finance licensee shall not be commingled with those of the separate entity, but shall be kept in a different location within the office. The Bureau of Financial Institutions shall be given access to the books and records of the separate entity, and shall be furnished such information as it may require in order to assure compliance with this section.

C. The expenses of the two entities shall be accounted for separately and so reported to the Bureau of Financial Institutions as of the end of each calendar year.

D. Advertising or other information published by the consumer finance licensee or the separate entity shall not contain any false, misleading, or deceptive statement or representation concerning the rates, terms, or conditions for loans by either of them. The separate entity shall not make or cause to be made any misrepresentation as to its being a licensed lender, or as to the extent to which it is subject to supervision or regulation.

E. The consumer finance licensee and the separate entity shall not make both a consumer finance loan and a real estate mortgage loan to the same borrower or borrowers as part of the same transaction.

F. Any compensation paid by the separate entity to any other party for the referral of loans, pursuant to an agreement or understanding between the separate entity and such other party, shall be an expense borne entirely by the separate entity. Such expense shall not be charged directly or indirectly to the borrower.

G. Except as authorized by the Commissioner of Financial Institutions, or by order of the State Corporation Commission, insurance, other than credit life insurance, credit accident and sickness insurance~~and~~, credit involuntary unemployment insurance, and noncredit-related life insurance sold pursuant to 10 VAC 5-70-10 et seq. shall not be sold in licensed consumer finance offices in connection with any mortgage loan made or purchased by the separate entity.

H. No interest in collateral other than real estate shall be taken in connection with any real estate mortgage loan made or purchased by the separate entity.

CHAPTER 70.

SALE OF NONCREDIT-RELATED LIFE INSURANCE

IN CONSUMER FINANCE OFFICES

10 VAC 5-70-20. Separation of lending and insurance sales.

No loan or extension of credit by the consumer finance licensee, or any affiliate conducting business in the licensee's office, shall be conditioned upon the purchase of noncredit-related life insurance. If a person expresses an interest in obtaining a loan or extension of credit from the consumer finance licensee, or from any affiliate conducting business in the licensee's office, the sale of noncredit-related life insurance to such person shall not be solicited until ~~after the loan or extension of credit transaction is consummated.~~ Neither the consumer finance licensee, nor any affiliate conducting business in the licensee's office, shall make a loan or extension of credit in order to enable a person to purchase noncredit related life insurance solicited or sold under this chapter. a credit decision is made, the customer is informed of that decision, and an entry showing such decision is made in the lender's books. Interest rates and other charges may not be conditioned upon the purchase of such insurance. The customer shall be given the option of paying the premium for such insurance with his or her own funds, or with a portion of a loan or extension of credit made to the customer. Such insurance may not be solicited or sold unless the loan or extension of credit made contemporaneously therewith exceeds \$1,000 exclusive of premiums

for such insurance. The total of the premium for such insurance plus the premiums for all other insurance connected with the loan or credit transaction shall not exceed 45% of the principal amount of the loan or credit transaction excluding insurance purchased by the creditor after the loan or credit transaction is closed because of the customer's failure to maintain lawfully required insurance on collateral.

10 VAC 5-70-30. Purchaser's right to cancel insurance.

Any person who purchases noncredit-related life insurance solicited in a consumer finance office shall have a right to cancel such purchase and receive a full premium refund until midnight of the ~~20th~~30th day ~~following consummation of the purchase~~after receipt of a policy or the effective date of coverage, whichever is later. The ~~consumer finance licensee~~ person soliciting the sale of such insurance shall clearly and conspicuously disclose to the ~~individual customer~~, prior to the consummation of the insurance purchase, his right to cancel, and shall provide the ~~individual customer~~ at the ~~that~~ time of ~~consummation of the purchase~~ with a form in duplicate by which the right to cancel may be exercised by mailing or delivering the form and policy to the consumer finance licensee or to the insurance company. Such form [shall be signed by the borrower,] shall be subject to prior Commission approval and shall clearly and conspicuously ~~set forth~~state:

1. ~~The cost of the insurance;~~

1. That purchase of such insurance is not a condition of any loan or extension of credit.
2. That interest rates and charges do not depend upon the purchase of such insurance.
3. That the customer has the option to pay the insurance premium from his own funds, or to pay the premium with a portion of loan proceeds.
4. That if the customer elects to finance the premium, interest will be charged on the financed premium at the same rate as applies to the loan.
5. If the insurer and creditor are affiliated, that they are affiliated and each expects to profit from the sale of such insurance.
6. The face amount, premium and policy term of such insurance.
7. A comparison of monthly payment, finance charge and total of payments with and without such insurance.
8. That the customer may cancel such insurance by mailing a copy of the notice, together with the policy, to the consumer finance licensee or the insurance company within 30 days after receipt of the policy.
9. That in the event of cancellation, the customer will be promptly refunded the entire premium for such insurance.

~~2-10.~~ The name and address of the consumer finance licensee~~+~~.

11. The name and address of the insurance company.

~~3. The actions necessary for the individual to cancel the insurance; and~~

~~4. The individual's right to receive a full refund of the insurance premium upon cancellation.~~

12. The name address and telephone number for making complaints to the Bureau of Financial Institutions.

10 VAC 5-70-50. Examination of records.

The Bureau of Financial Institutions shall be given access to the books and records of ~~the consumer finance business and the insurance sales business~~ conducted under these regulations and be furnished such information as it may need in order to ensure that these conditions are being observed. Noncredit-related life insurance sales records shall be maintained for a period of three years after sale. Such records shall include, but not be limited to, worksheets or the like containing factors and/or calculations used to determine how much life insurance the customer may need or want, disclosure documents [containing the customer's acknowledgment of receipt] and specimens of policies sold.